

REMARKS/ARGUMENTS

Claims 1-18 are pending. Claim 10 is amended to correct typographical errors. Claims 1 and 13 are amended to clarify the term "laminate."

The Applicant notes with appreciation the Examiner's indication of Claim 10 representing patentable subject matter.

The claims stand rejected as follows:

Claims	Rejection
1, 4, 5-9, 11-13, 15, 17, and 18	35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,921,376 (Tweardy et al)
2, 3, 14, and 16	35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 6,921,376 (Tweardy et al) in view of U.S. Published Application no. 2005/0101896 (Calabrese)

All rejections are respectfully traversed.

Turning to the rejection under Section 102(b), the cited Tweardy patent cannot be said to anticipate the subject matter of independent claim 1 (or its dependent claims). A Section 102 anticipation exists only when a single reference describes each and every element of the claim. *Jamesbury Corp. v. Litton Industrial Products*, 756 F.2d 1556, 225 USPQ 253 (Fed. Cir. 1985).

Independent claims 1 and 13 each require, among other things, upper and lower posterior laminate bodies, each including a polymeric sheet material, a foam material, and a fabric material; and upper and lower anterior laminate bodies each including a polymeric sheet material and a fabric material. Claims 1 and 13 have been amended to clarify over non-laminate structures, such as the conventional padded or covered structures described in the prior art.

The Examiner asserts that Tweardy has an upper posterior laminate body 202 and a lower posterior laminate body (no number given), each comprising a laminated structure having a polymeric sheet material, a foam material, and a fabric material. The Examiner also asserts that Tweardy has an upper anterior laminate body 106 and a lower anterior laminate body (no number given), each comprising a laminated structure having a polymeric sheet material (Col. 5, lines 1-7) and a fabric material (Col. 5, lines 7-10).

With regard to the supposed "upper posterior laminate body 202," reference numeral 202 of the Tweardy patent relates to a "rear strut 202," which is shown in detail in Fig. 7.

Notwithstanding the fact that the “rear strut 202” does not even correspond to the claimed posterior laminate body in the overall claimed structure, Tweardy bears no description to support the Examiner’s conclusory statement that the rear strut 202 is a laminated structure having a polymeric sheet material, a foam material, and a fabric material. This is likewise the case for the unidentified lower posterior laminate body, as Tweardy is devoid of any material corresponding to the claimed laminate material.

There is likewise no support that the remaining “laminated structures” asserted by the Examiner are “laminates.” In making the rejection, the Examiner relies on Col. 5, lines 1-10 (polymeric sheet material (Col. 5, lines 1-7) and a fabric material (Col. 5, lines 7-10), reproduced below:

The upper and lower anterior plates 106, 108 also include slots 109 for attaching securing straps, which are illustrated in FIG. 1A. Both the upper and lower front plates 106,108 also preferably molded from or die cut from a sheet of relatively flexible and strong plastic material, although any suitable material known to those in the art may be utilized. Although not illustrated, it is further understood by those of skill in the art that the components discussed with reference to FIGS. 4 and 5 can include padding or surfacing materials for patient comfort, or other purposes.

It appears that the Examiner is asserting that a plastic material having padding or surfacing materials is the same thing as the claimed laminated structures. This is in error.

A laminated structure or laminate is well known as being composed of layers of firmly united material (Webster’s Ninth New Collegiate Dictionary 1983). The Specification describes the laminated structures in this regard as well. For example, the laminated structures are described as being made by vacuum molding, press molding, and the like, with adhesive placed between the layers.

There is no description in Tweardy that describes or suggests Applicant’s structure wherein the components are made of a laminated structure having a polymeric sheet material, a foam material, and a fabric material.

Accordingly, since the independent claims require “laminate bodies,” and there is no description in Tweardy of any such laminated bodies, withdrawal of the rejection under Section 102(b) is respectfully requested for all of the rejected claims.

The rejection of claims 2, 3, 14, and 16 based on the hypothetical Tweardy/Calbrese combination is respectfully traversed for these same reasons. The cited Tweardy reference does not substantially disclose the invention of the rejected claims, and combining the Calabrese reference, which fails to have any disclosure relevant to the claimed laminate, with the cited Tweardy patent does not cure these defects.

Accordingly, withdrawal of the rejections under Section 103 is respectfully requested.

Reconsideration and issuance of a notice of allowance is requested. In the event this response is not timely filed, Applicants hereby petition for the appropriate extension of time and request that the fee for the extension along with any other fees which may be due with respect to this paper be charged to our **Deposit Account No. 12-2355**.

Respectfully submitted,

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